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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,487	09/23/2003	Charles M. Hastings SR.	033962-002	3972
21839	7590	02/02/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			NGUYEN, PHUNG	
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ALEXANDRIA, VA 22313-1404			PAPER NUMBER	
			2632	

DATE MAILED: 02/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/669,487

Applicant(s)

HASTINGS, CHARLES M.

Examiner

Phung T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Revision (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/01/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 7, "an extensible structure" should be changed to --said extensible structure--.

Claim 16, line 8, "an extensible structure" should be changed to --said extensible structure--.

Claim 17, line 6, "an extensible structure" should be changed to --said extensible structure--.

Claims 2-15 are also rejected for incorporating the above deficiency by dependency.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennox et al. (U.S. Pat. 6,137,419) in view of Amberger et al. (U.S. Pat. 4,942,937).

**Regarding claim 1:** Lennox et al. disclose pickup truck tailgate monitor comprising

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a control module, the control module receiving an electrical signal from an extensible structure when the extensible structure is fully or partially deployed and, wherein the control module communicates the electrical signal to an audible alarm (col. 3, lines 18-50). Lennox et al. do not teach a sensor for sensing a first position and a second position of a vehicle's gearshift lever, wherein the sensor is affixed to an exterior of the vehicle's dashboard. However, Amberger et al. disclose locking device for a gearshift lever comprising the sensor switch 28 or 32 (fig. 1, col. 2, lines 47-56, and col. 3, lines 14-22) for sensing a first position and a second position of a vehicle's gearshift lever. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the technique of Amberger et al. in the system of Lennox et al. in order to alert the driver if the extensible structure is fully or partially deployed before driving the vehicle which is an advantage.

**Regarding claim 2:** Amberger et al. disclose wherein at least a portion of the sensor is 15 affixed to the vehicle's gearshift lever (fig. 1, col. 2, lines 47-52).

**Regarding claim 3:** Amberger et al. disclose wherein the sensor is a microswitch (col. 3, lines 14-21).

**Regarding claim 4:** Lennox et al. and Amberger et al. do not teach wherein the microswitch is a normally closed single pole single throw microswitch. Since Amberger et al. disclose the sensor switch 28 or 32 as shown in figure 4, it would be obvious to the skilled artisan to use the normally closed single pole single throw microswitch or the normally open single pole single throw microswitch to detect the position of the vehicle's gearshift lever as desired because they perform the same function.

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**Regarding claim 5:** Amberger et al. disclose wherein the sensor is an infrared LED and an infrared receptor affixed to an exterior of the vehicle's dashboard (col. 3, lines 17-21).

**Regarding claim 6:** Amberger et al. disclose wherein the sensor is a magnetic device (col. 3, lines 17-21).

**Regarding claim 7:** Amberger et al. disclose wherein the magnetic device comprises a magnetic sensing switch and a magnet (col. 3, lines 17-21).

**Regarding claim 8:** Lennox et al. disclose wherein the control module comprises an enclosure, a circuit board, and a plurality of electrical connections as shown in figure 3.

**Regarding claim 9:** Amberger et al. disclose a remotely controlled switching device (col. 3, lines 17-21).

**Regarding claim 10:** Amberger et al. disclose wherein the switching device is an electromechanical device (col. 3, lines 14-21).

**Regarding claim 11:** Amberger et al. disclose wherein the switching device is a semiconductor circuit which uses the existence of a control voltage to enable a passage of electricity from the device's input terminal through it to its output terminal as shown in figure 4.

**Regarding claim 12:** Amberger et al. disclose wherein the switching device is an optical switch device (col. 3, lines 17-21).

**Regarding claim 13:** Amberger et al. disclose wherein the switching device is a magnetic circuit (col. 3, lines 14-21).

**Regarding claim 14:** Lennox et al. disclose wherein the alarm is a piezo alarm siren (col. 3, lines 46-48).

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**Regarding claim 15:** Lennox et al. and Amberger et al. do not teach a flashing light as claimed. Since Lennox et al. teach the alarm is the electronic buzzer 68 (col. 3, lines 42-50), it would be obvious to the skilled artisan to add the flashing light in order to provide a comprehensive system.

**Regarding claim 16:** All the claimed subject matter is already discussed in respect to claims 1 and 6 above.

**Regarding claim 17:** All the claimed subject matter is already discussed in respect to claim 1 above.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Clark [U.S. Pat. 6,374,766] discloses signal device for roll up doors.
- b. Read [U.S. Pat. 5,602,526] discloses vehicle open door warning system.
- c. Zielinski et al. [U.S. Pat. 6,396,395] disclose programmable vehicle stopping system and process for route learning.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 571-272-2968. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax numbers for the organization

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where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Phung Nguyen

A handwritten signature in black ink, appearing to read 'Phung Nguyen', with a long horizontal flourish extending to the right.

Date: February 1, 2005